

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

TTAB

In the matter of trademark Registration No.

1,505,369 / 73705306

For the mark: SURF CENTRAL

Date Registered: September 20, 1988

REVMAN INTERNATIONAL, INC.,

Petitioner,

v.

RHMM, INC. dba SURF CENTRAL  
CORPORATION,

Registrant.

Petition to Cancel

PETITION FOR CANCELLATION

Trademark Trial and Appeal Board  
U.S. Patent and Trademark Office  
Madison East, Concourse Level Room C 55  
600 Dulany Street  
Alexandria, VA 22314

07-21-2006

U.S. Patent & TMOfc/TM Mail Rcpt Dt. #22

07/25/2006 GTHOAS2 00000112 1505369

01 FC:6401

300.00 0P

Petitioner, Revman International, Inc., a Delaware corporation, having offices at 1211 Avenue of the Americas, New York, New York 10036 ("Petitioner"), believes that it will be damaged by Registration No. 1,505,369, for the mark SURF CENTRAL, applied to retail clothing store services, and hereby petitions to cancel the same. As grounds for this Petition it is alleged that:

1. Registrant RHMM, INC. dba SURF CENTRAL CORPORATION, 2529 South U.S. 1, Fort Pierce, Florida 33482 ("Registrant") has obtained a registration (the "Subject Registration") for the mark SURF CENTRAL (the "Disputed Mark") for retail clothing

store services, as evidenced by the printout from the U.S. Patent and Trademark Office Trademark Electronic Search System ("TESS") for the Subject Registration annexed hereto as Exhibit A.

2. Petitioner has filed U.S. Trademark Application Serial No. 78/801,243 for the mark SURF CENTRAL ("Petitioner's Mark") on an intent-to-use basis for "Decorative Pillows in International Class 20 and "Bed Linens, Namely, Sheets, Pillow Cases, Pillow Shams, Comforters, Duvet Covers, Blankets, Quilts, Throws, Bed Skirts and Bedding Ensembles sold as a unit comprising Sheets, Pillow Cases, Comforter, Sham and Bed Skirt; Soft Window Treatments and accessories, Namely, Draperies, Curtains, Scarves, Fabric Valences and Curtain Tiebacks made of Fabric" in International Class 21. A printout from the U.S. Patent and Trademark Office Trademark Application and Registrations Retrieval ("TARR") database regarding Application Serial No. 78/801,243 is annexed hereto as Exhibit B.

3. On May 26, 2006, an office action was issued regarding Petitioner's Application Serial No. 78/801,243 (the "Office Action") by Examining Attorney Bonnie Luken. The Office Action refused registration on the grounds that Petitioner's Mark was confusingly similar to the Subject Registration. A copy of the Office Action is attached hereto as Exhibit C.

4. On information and belief, Registrant has not made use of the Disputed Mark in interstate commerce in connection with the goods identified in Registration No. 1,505,369 for three (3) consecutive years and has no intent to resume use. Thus, Registrant has statutorily abandoned the Disputed Mark under 15 U.S.C. §1127. Annexed hereto as Exhibit D is an extract from the records of the Secretary of State of Florida indicating that Registrant was dissolved administratively in 1995 for failure to file an annual report. The records of the U.S. Patent and Trademark Office indicate that this registration has not been assigned.

5. Petitioner is likely to be damaged by continuance of the Subject Registration in that Petitioner will not be able to obtain a registration for its own mark, Petitioner's Mark, as the examining attorney has asserted that the Registration is confusingly similar to Petitioner's Mark.

WHEREFORE, Petitioner respectfully requests that the Subject Registration, U.S. Trademark Reg. No. 1,505,369 be cancelled and removed from the Principal Register.

This Petition to Cancel is submitted in triplicate. A check for the filing fee of \$300 is enclosed. If there are any additional fees due, the Commissioner is hereby authorized to charge them to our Deposit Account No. 502661.

DATED: July 21, 2006

Respectfully submitted,

Revman International, Inc.  
Petitioner

By: 

Barry H. Fishkin, Esq.  
Attorney for Petitioner  
PHILLIPS NIZER LLP  
666 Fifth Avenue  
New York, New York 10103  
Tel.: (212) 841-0545  
Fax: (212) 262-5152

**EXHIBIT A**  
**TESS PRINTOUT OF**  
**REG. NO. 1,505,369**



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## Trademarks &gt; Trademark Electronic Search System(Tess)

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## Typed Drawing

Word Mark SURF CENTRAL  
Goods and Services IC 042. US 101. G & S: RETAIL CLOTHING STORE SERVICES. FIRST USE: 19850900.  
FIRST USE IN COMMERCE: 19850900  
Mark Drawing Code (1) TYPED DRAWING  
Design Search Code  
Serial Number 73705306  
Filing Date January 12, 1988  
Current Filing Basis 1A  
Original Filing Basis 1A  
Published for Opposition June 28, 1988  
Registration Number 1505369  
Registration Date September 20, 1988  
Owner (REGISTRANT) RHMM, INC. DBA SURF CENTRAL CORPORATION FLORIDA 2529 S. U.S.  
1 FT. PIERCE FLORIDA 33482  
Attorney of Record JAMES F. MCKEOWN  
Type of Mark SERVICE MARK  
Register PRINCIPAL  
Affidavit Text SECT 15. SECT 8 (6-YR).  
Live/Dead Indicator LIVE

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**EXHIBIT B**

**TARR PRINTOUT OF  
APPLICATION SERIAL NO. 78/801,243**

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2006-07-21 10:55:13 ET

Serial Number: 78801243 Assignment Information

Registration Number: (NOT AVAILABLE)

Mark

# SURF CENTRAL

(words only): SURF CENTRAL

Standard Character claim: Yes

**Current Status:** A non-final action has been mailed. This is a letter from the examining attorney requesting additional information and/or making an initial refusal. However, no final determination as to the registrability of the mark has been made.

**Date of Status:** 2006-05-26

**Filing Date:** 2006-01-27

**Transformed into a National Application:** No

**Registration Date:** (DATE NOT AVAILABLE)

**Register:** Principal

**Law Office Assigned:** LAW OFFICE 107

**Attorney Assigned:**  
LUKEN BONNIE Employee Location

**Current Location:** L7X -TMEG Law Office 107 - Examining Attorney Assigned

**Date In Location:** 2006-05-26

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## LAST APPLICANT(S)/OWNER(S) OF RECORD

---

1. Revman International, Inc.

**Address:**



Revman International, Inc.  
1211 Avenue of the Americas  
New York, NY 10036  
United States  
**Legal Entity Type:** Corporation  
**State or Country of Incorporation:** Delaware

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**GOODS AND/OR SERVICES**

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**International Class:** 020  
**Class Status:** Active  
Decorative pillows  
**Basis:** 1(b)  
**First Use Date:** (DATE NOT AVAILABLE)  
**First Use in Commerce Date:** (DATE NOT AVAILABLE)

**International Class:** 024  
**Class Status:** Active  
Bed linens, namely, sheets, pillowcases, pillow shams, comforters, duvet covers, blankets, quilts, throws, bed skirts, and bedding ensembles sold as a unit, comprising sheets, pillow cases, comforter, sham and bed skirt; soft window treatments and accessories, namely draperies, curtains, scarves, fabric valances and curtain tie backs made of fabric  
**Basis:** 1(b)  
**First Use Date:** (DATE NOT AVAILABLE)  
**First Use in Commerce Date:** (DATE NOT AVAILABLE)

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**ADDITIONAL INFORMATION**

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(NOT AVAILABLE)

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**MADRID PROTOCOL INFORMATION**

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(NOT AVAILABLE)

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**PROSECUTION HISTORY**

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2006-05-26 - Non-final action mailed  
2006-05-26 - Non-Final Action Written  
2006-05-18 - Assigned To Examiner  
2006-02-02 - New Application Entered In Tram

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**CORRESPONDENCE INFORMATION**

---

**Correspondent**

Barry H. Fishkin (Attorney of record)

BARRY H. FISHKIN  
PHILLIPS NIZER LLP  
666 5TH AVE  
NEW YORK, NY 10103-0001

**Phone Number:** 212-977-9700

**Fax Number:** 212-262-5152

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**EXHIBIT C**  
**OFFICE ACTION**  
**DATED MAY 26, 2006**

•

Document Description: **Offc Action Outgoing**Mail / Create Date: **26-May-2006**[Previous Page](#)[Next Page](#)You are currently on page **1** of **25****UNITED STATES PATENT AND TRADEMARK OFFICE****SERIAL NO:** 78/801243**APPLICANT:** Revman International, Inc.**\*78801243\*****CORRESPONDENT ADDRESS:**BARRY H. FISHKIN  
PHILLIPS NIZER LLP  
666 5TH AVE  
NEW YORK, NY 10103-0001**RETURN ADDRESS:**Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451**MARK:** SURF CENTRAL**CORRESPONDENT'S REFERENCE/DOCKET NO:** N/A**CORRESPONDENT EMAIL ADDRESS:**

Please provide in all correspondence:

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address.

**OFFICE ACTION**

**RESPONSE TIME LIMIT:** TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE MAILING OR E-MAILING DATE.

**MAILING/E-MAILING DATE INFORMATION:** If the mailing or e-mailing date of this Office action does not appear above, this information can be obtained by visiting the USPTO website at <http://tarr.uspto.gov/>, inserting the application serial number, and viewing the prosecution history for the mailing date of the most recently issued Office communication.

Serial Number 78/801243

The assigned examining attorney has reviewed the referenced application and determined the following.

**Search Results**

The assigned trademark examining attorney has reviewed the referenced application and has determined the following:

### **Refusal Based on Likelihood of Confusion**

Registration of the proposed mark is refused because of a likelihood of confusion with the mark in U.S. Registration No. 1505369. Trademark Act Section 2(d), 15 U.S.C. §1052(d); TMEP §§1207.01 *et seq.* See the enclosed registration.

### **General Principles in Determining Likelihood of Confusion**

The Court in *In re E. I. Du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973), listed the principal factors to be considered in determining whether there is a likelihood of confusion under Section 2(d). Any one of the factors listed may be dominant in any given case, depending upon the evidence of record. *In re Dixie Restaurants, Inc.*, 105 F.3d 1405, 41 USPQ2d 1531, 1533 (Fed. Cir. 1997); In this case, the following factors are the most relevant: similarity of the marks, similarity of the goods and/or services, and similarity of trade channels of the goods and/or services. See *In re Opus One, Inc.*, 60 USPQ2d 1812 (TTAB 2001); *In re Dakin's Miniatures Inc.*, 59 USPQ2d 1593 (TTAB 1999); *In re Azteca Restaurant Enterprises, Inc.*, 50 USPQ2d 1209 (TTAB 1999); *In re L.C. Licensing Inc.*, 49 USPQ2d 1379 (TTAB 1998); TMEP §§1207.01 *et seq.*

Taking into account the relevant *Du Pont* factors, a likelihood of confusion determination in this case involves a two-part analysis. First, the marks are compared for similarities in appearance, sound, connotation and commercial impression. *In re E.I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973). Second, the goods or services are compared to determine whether they are similar or related or whether the activities surrounding their marketing are such that confusion as to origin is likely. *In re National Novice Hockey League, Inc.*, 222 USPQ 638 (TTAB 1984); *In re August Storck KG*, 218 USPQ 823 (TTAB 1983); *In re Int'l Tel. and Tel. Corp.*, 197 USPQ 910 (TTAB 1978); *Guardian Prods. Co., v. Scott Paper Co.*, 200 USPQ 738 (TTAB 1978); TMEP §§1207.01 *et seq.*

Any doubt regarding a likelihood of confusion is resolved in favor of the prior registrant. *Hewlett-Packard Co. v. Packard Press Inc.*, 281 F.3d 1261, 62 USPQ2d 1001, 1004 (Fed. Cir. 2002); *In re Hyper Shoppes (Ohio), Inc.*, 837 F.2d 463, 6 USPQ2d 1025 (Fed. Cir. 1988); TMEP §§1207.01(d)(i).

The applicant's mark is SURF CENTRAL for intended use with decorative pillows, bed linens, bed furnishings, such as bedding ensembles, including comforters, shams and bed skirts, and window treatments, such as curtains and valances. The registrant's mark is SURF CENTRAL for use with retail clothing store services.

### **Comparison of the Marks**

The marks are identical in sound, appearance, meaning and overall commercial impression.

### **Comparison of the Goods/Services**

The goods and/or services of the parties need not be identical or directly competitive to find a likelihood of confusion. Instead, they need only be related in some manner, or the conditions surrounding their marketing be such that they could be encountered by the same purchasers under circumstances that could give rise to the mistaken belief that the goods and/or services come from a common source. *On-line Careline Inc. v. America Online Inc.*, 229 F.3d 1080, 56 USPQ2d 1471 (Fed. Cir. 2000); *In re Martin's Famous Pastry Shoppe, Inc.*, 748 F.2d 1565, 223 USPQ 1289 (Fed. Cir. 1984); *In re Melville Corp.*, 18 USPQ2d 1386, 1388 (TTAB 1991); *In re Corning Glass Works*, 229

USPQ 65 (TTAB 1985); *In re Rexel Inc.*, 223 USPQ 830 (TTAB 1984); *Guardian Prods. Co., Inc. v. Scott Paper Co.*, 200 USPQ 738 (TTAB 1978); *In re Int'l Tel. & Tel. Corp.*, 197 USPQ 910 (TTAB 1978); TMEP §1207.01(a)(i).

If the marks of the respective parties are identical, the relationship between the goods or services of the respective parties need not be as close to support a finding of likelihood of confusion as might apply where differences exist between the marks. *Century 21 Real Estate Corp. v. Century Life of America*, 970 F.2d 874, 877, 23 USPQ2d 1698, 1701 (Fed. Cir. 1992), *cert. denied* 506 U.S. 1034 (1992); *In re Opus One Inc.*, 60 USPQ2d 1812, 1815 (TTAB 2001); *Amtcor, Inc. v. Amtcor Industries, Inc.*, 210 USPQ 70 (TTAB 1981); TMEP §1207.01(a).

Applicant's goods (bed linens and window treatments) and registrant's services (retail clothing store services) are related. Clothing and bed linens and window treatments frequently emanate from a single source and consumers are used to seeing clothing, bedding and window treatments emanate from a single source. See attached third party registrations for registrants offering retail store services, clothing and bed linens.

Attached also is evidence showing the on-line web sites of purveyors who are primarily known for clothing but also offer to the public bedding and linen along with the clothing. This evidence shows that the public is used to seeing sources that are primarily clothing sources, frequently also offer bedding. Upon encountering applicant's mark on bedding, consumers could confuse applicant's line of bedding and window treatments with registrant's clothing store services. Further, because there are no restrictions or limitations on the channels of trade for applicant's goods, applicant's goods could be sold in registrant's retail stores. The Trademark Act not only guards against the misimpression that the senior user is the source of the junior user's goods or services, but it also protects against "reverse confusion," that is, that the junior user is the source of the senior user's goods or services. *In re Shell Oil Co.*, 992 F.2d 1204, 1208, 26 USPQ2d 1687, 1690 (Fed. Cir. 1993); *Banff Ltd. v. Federated Department Stores*, 6 USPQ2d 1187 (2d Cir. 1988); *Fisons Horticulture v. Vigor Industries*, 31 USPQ2d 1592 (3d Cir. 1994).

Likelihood of confusion is determined on the basis of the goods and/or services identified in the application and registration. If the application describes the goods and/or services broadly and there are no limitations as to their nature, type, channels of trade or classes of purchasers, it is presumed that the application encompasses all goods and/or services of the type described, that they move in all normal channels of trade, and that they are available to all potential customers. See *In re Melville Corp.*, 18 USPQ2d 1386, 1388 (TTAB 1991) ("With reference to the channels of trade, applicant's argument that its goods are sold only in its own retail stores is not persuasive ... There is no restriction [in its identification of goods] as to the channels of trade in which the goods are sold"); TMEP §1207.01(a)(iii).

Attached are copies of printouts from the USPTO X-Search database, which show third-party registrations of marks used in connection with the same or similar goods and/or services as those of applicant and registrant in this case. These printouts have probative value to the extent that they serve to suggest that the goods and/or services listed therein are of a kind that may emanate from a single source. See *In re Infinity Broad. Corp.*, 60 USPQ2d 1214, 1217-1218 (TTAB 2001); *In re Albert Trostel & Sons Co.*, 29 USPQ2d 1783, 1785-86 (TTAB 1993); *In re Mucky Duck Mustard Co., Inc.*, 6 USPQ2d 1467, 1470 at n.6 (TTAB 1988).

The examining attorney refers to the excerpted articles from the Internet. See attachments. Web site contents have probative value since they are accessible to the consuming public and both constitute

evidence that the public may be exposed to. See *In re Fitch ICBA Inc.*, 64 USPQ2d 1058 (TTAB 2002). Printouts of articles downloaded from the Internet are admissible as evidence of information available to the general public, and of the way in which a term is being used by the public. TMEP §710.01(b). *In re Total Quality Group Inc.*, 51 USPQ2d 1474, 1475-76 (TTAB 1999); *Raccioppi v. Apogee Inc.*, 47 USPQ2d 1368, 1370-1 (TTAB 1998). With regard to evidence the Trademark Trial and Appeal Board has also stated that newswire stories have probative value because of the increasing use of the personal computer to obtain news and information, see *In re Cell Therapeutics Inc.*, 67 USPQ2d 1795 (TTAB 2003); and that foreign publications and English language websites have probative value since the Internet is a tool widely available to all. See *In re Remacle*, 66 USPQ2d 1222 (TTAB 2002) at note 5

The goods and services are related and the marks are identical. Therefore, a likelihood of confusion exists if applicant's proposed mark is allowed to register.

Although the trademark examining attorney has refused registration, applicant may respond to the refusal to register by submitting evidence and arguments in support of registration.

#### **For Applicant's Information Only**

Current status and status date information is available, via push button telephone, for all federal trademark registration and application records maintained in the automated Trademark Reporting and Monitoring (TRAM) system. The information may be accessed by calling (703) 305-8747 from 6:30 a.m. until midnight, Eastern Time, Monday through Friday, and entering a seven-digit registration number or eight-digit application number, followed by the "#" symbol, after the welcoming message and tone. Callers may request information for up to five registration number or application number records per call.

No set form is required for response to the Office action. The applicant must respond to each point raised. The applicant should set forth the required changes or statements and request that the Office enter them. If the applicant has any questions or needs assistance in responding to this Office action, please telephone the assigned examining attorney.

/bluken/  
Bonnie Luken  
Trademark Examining Attorney  
Phone (571) 272 8807  
Fax (571) 273 9107

#### **HOW TO RESPOND TO THIS OFFICE ACTION:**

- **ONLINE RESPONSE:** You may respond using the Office's Trademark Electronic Application System (TEAS) Response to Office action form available on our website at <http://www.uspto.gov/teas/index.html>. If the Office action issued via e-mail, you must wait 72 hours after receipt of the Office action to respond via TEAS. **NOTE: Do not respond by e-mail. THE USPTO WILL NOT ACCEPT AN E-MAILED RESPONSE.**
- **REGULAR MAIL RESPONSE:** To respond by regular mail, your response should be sent to

the mailing return address above, and include the serial number, law office number, and examining attorney's name. **NOTE: The filing date of the response will be the date of receipt in the Office,** not the postmarked date. To ensure your response is timely, use a certificate of mailing. 37 C.F.R. §2.197.

**STATUS OF APPLICATION:** To check the status of your application, visit the Office's Trademark Applications and Registrations Retrieval (TARR) system at <http://tarr.uspto.gov>.

**VIEW APPLICATION DOCUMENTS ONLINE:** Documents in the electronic file for pending applications can be viewed and downloaded online at <http://portal.uspto.gov/external/portal/tow>.

**GENERAL TRADEMARK INFORMATION:** For general information about trademarks, please visit the Office's website at <http://www.uspto.gov/main/trademarks.htm>

**FOR INQUIRIES OR QUESTIONS ABOUT THIS OFFICE ACTION, PLEASE CONTACT THE ASSIGNED EXAMINING ATTORNEY SPECIFIED ABOVE.**

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**Print: May 26, 2006**

**73705306**

**TYPED DRAWING**

**Serial Number**

73705306

**Status**

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

**Word Mark**

SURF CENTRAL

**Standard Character Mark**

No

**Registration Number**

1505369

**Date Registered**

1988/09/20

**Type of Mark**

SERVICE MARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

RHMM, INC. DBA SURF CENTRAL CORPORATION FLORIDA 2529 S. U.S. 1  
PIERCE FLORIDA 33482

**Goods/Services**

Class Status -- ACTIVE. IC 042. US 101. G & S: RETAIL CLOTH  
STORE SERVICES. First Use: 1985/09/00. First Use In Commerce:  
1985/09/00.

**Filing Date**

1988/01/12

**Examining Attorney**

OMELKO, NANCY

**Attorney of Record**

JAMES F. MCKEOWN

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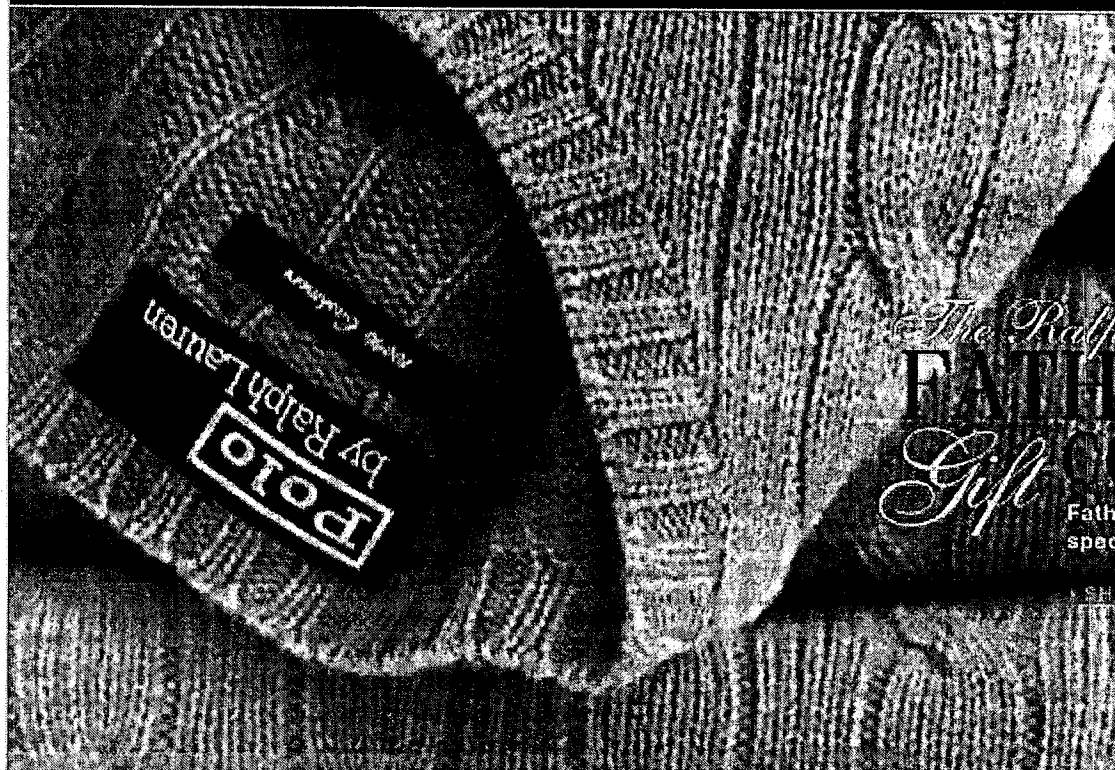
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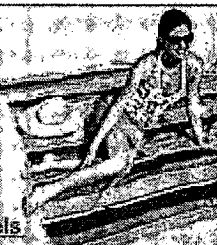


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**Print: May 26, 2006**

**78452195**

**DESIGN MARK**

**Serial Number**

78452195

**Status**

REGISTERED

**Word Mark**

PENDLETON

**Standard Character Mark**

Yes

**Registration Number**

3049323

**Date Registered**

2006/01/24

**Type of Mark**

TRADEMARK; SERVICE MARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

Pendleton Woolen Mills, Inc. CORPORATION OREGON 220 NW Broadway  
Portland OREGON 972083030

**Goods/Services**

Class Status -- ACTIVE. IC 018. US 001 002 003 022 041. G & Tote bags, overnight bags, backpacks, duffel bags, satchels, sa bags, cosmetic cases sold empty, toiletry cases sold empty, sha bags sold empty, leather blanket carriers, canvas wood carriers leather key chains, and dog apparel. First Use: 1981/01/00. F Use In Commerce: 1981/01/00.

**Goods/Services**

Class Status -- ACTIVE. IC 024. US 042 050. G & S: Blankets namely, bed blankets, children's blankets, blankets for outdoor and woolen blankets; blanket throws, linens, towels, pillows, curtains, woolen fabric, textile wall hangings, cloth coasters, runners, oven mitts, and fireplace mitts. First Use: 1895/00/0 First Use In Commerce: 1895/00/00.

- . . . .

**Print: May 26, 2006****78452195**

store services, mail order catalog service, and online retail s services featuring a wide variety of household and consumer goo such as clothing, footwear, headgear, and accessories therefor, jewelry, blankets, bedding, linens, pillows, fabric, furniture, home furnishings and accessories for bath, kitchen, office, and household, housewares and kitchen utensils, luggage, bags, and accessories therefor, travel items, books, paper goods, printed matter, artwork, toys, household and holiday decorations, collectibles, compact discs and disc cases, computer accessorie pet products. First Use: 1995/00/00. First Use In Commerce: 1995/00/00.

**Prior Registration(s)**

0514710;2713136;2717244;AND OTHERS

**Section 2f Statement**

2(F) ENTIRE MARK

**Filing Date**

2004/07/16

**Examining Attorney**

SUAREZ, MARIA-VICTORIA

**Attorney of Record**

Anne W. Glazer

# PENDLETON

**Print: May 26, 2006**

**78491413**

**DESIGN MARK**

**Serial Number**

78491413

**Status**

REGISTERED

**Word Mark**

LIMITED TOO

**Standard Character Mark**

No

**Registration Number**

3092372

**Date Registered**

2006/05/16

**Type of Mark**

TRADEMARK; SERVICE MARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(3) DESIGN PLUS WORDS, LETTERS AND/OR NUMBERS

**Owner**

Limco, Inc. CORPORATION DELAWARE 1105 North Market Street Wilmi  
DELAWARE 19801

**Goods/Services**

Class Status -- ACTIVE. IC 003. US 001 004 006 050 051 052.  
personal care products, namely, antiperspirant, artificial nail  
astringent for the face, astringent for the skin, bath beads, b  
oil, bath salts, blush, body glitter, body mist, body oil, body  
body wash, bubble bath, cologne, cream for the body, cream for  
cuticles, cream for the eyes, cream for the face, cream for the  
cream for the hands, deodorants for personal use, essential oil  
personal use, exfoliating preparations for the skin, eye gels,  
makeup pencils, eye masks, eye shadow, face highlighter, face m  
face mist, face scrub, non-medicated foot soaks, face toners,  
foundation, fragrant body splash, fragrant body mist, hair  
conditioner, hair dyes, hair glitter, hair highlighter, hair ma  
hair pomade, hair rinses, hair removing creams, hair shampoo, h  
spray, hair straightener, hair styling gel, hair styling mousse  
lotion for the body, lotion for the face, lotion for the feet,

Print: May 26, 2006

78491413

mascara, massage cream, massage lotion, massage oil, nail polis  
polish remover, nail stencils, non-medicated blemish stick,  
non-medicated cleanser for the face, non-medicated foot spray,  
non-medicated massage ointment, oil blotting sheets for the ski  
perfume, powder for the body, powder for the face, powder for t  
feet, pumice stones for personal use, salt scrubs for the skin,  
shaving cream, shaving gels, shower cream, shower gel, skin bro  
cream, soap for the body, soap for the face; soap for the hands  
block for the body, sun block for the face, suntan lotion for t  
body, suntan lotion for the face, sunless tanning lotion for th  
sunless tanning lotion for the face, pre-suntanning lotion for  
body, pre-suntanning lotion for the face, post-suntanning lotio  
the body, post-suntanning lotion for the face and talcum powder  
First Use: 1991/10/06. First Use In Commerce: 1991/10/06.

**Goods/Services**

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G &  
wear, namely, sunglasses. First Use: 1995/09/30. First Use In  
Commerce: 1995/09/30.

**Goods/Services**

Class Status -- ACTIVE. IC 011. US 013 021 023 031 034. G &  
lamps and lamp shades. First Use: 1998/08/30. First Use In Co  
1998/08/30.

**Goods/Services**

Class Status -- ACTIVE. IC 014. US 002 027 028 050. G & S:  
and watches. First Use: 1998/09/30. First Use In Commerce:  
1998/09/30.

**Goods/Services**

Class Status -- ACTIVE. IC 016. US 002 005 022 023 029 037 0  
G & S: dry erase writing boards, pictures and stationery. Fir  
1997/04/30. First Use In Commerce: 1997/04/30.

**Goods/Services**

Class Status -- ACTIVE. IC 018. US 001 002 003 022 041. G &  
backpacks, gym bags, handbags, luggage, purses, tote bags, umbr  
and wallets. First Use: 1996/08/31. First Use In Commerce:  
1996/08/31.

**Goods/Services**

Class Status -- ACTIVE. IC 020. US 002 013 022 025 032 050.  
bed head boards, boxes not made of metal sold empty, jewelry bo  
made of metal sold empty, picture frames, pillows and shelves.  
Use: 2000/05/31. First Use In Commerce: 2000/05/31.

**Goods/Services**

Class Status -- ACTIVE. IC 024. US 042 050. G & S: bed cano  
-----

**Print: May 26, 2006****78491413**

towels and window curtains. First Use: 2000/05/31. First Use  
Commerce: 2000/05/31.

**Goods/Services**

Class Status -- ACTIVE. IC 025. US 022 039. G & S: clothing  
namely, bathrobes, beach cover-ups, belts, blazers, blouses, bo  
suits, boots, boxer shorts, bras, bustiers, camisoles, caps, co  
dresses, garter belts, girdles, gloves, gowns, halter tops, hat  
headbands, jackets, jeans, jogging suits, knit shirts, knit top  
leotards, lingerie, mittens, negligees, night gowns, night shir  
pajamas, panties, pants, pantyhose, sandals, sarongs, scarves,  
shoes, shorts, skirts, slacks, slippers, slips, sneakers, socks  
stockings, suits, sweat pants, sweat shirts, sweat shorts, swea  
suits, sweaters, swimsuits, t-shirts, tank tops, teddies, ties,  
tights, underpants, undershirts, underwear and vests. First Us  
1987/09/16. First Use In Commerce: 1987/09/16.

**Goods/Services**

Class Status -- ACTIVE. IC 026. US 037 039 040 042 050. G &  
barrettes, hair bands, hair bows, hair clips, hair ornaments, h  
pins, hair ribbons and ponytail holders. First Use: 1996/08/31  
First Use In Commerce: 1996/08/31.

**Goods/Services**

Class Status -- ACTIVE. IC 027. US 019 020 037 042 050. G &  
wall hangings not made of textiles and rugs. First Use: 2002/0  
First Use In Commerce: 2002/07/31.

**Goods/Services**

Class Status -- ACTIVE. IC 028. US 022 023 038 050. G & S:  
toys. First Use: 1997/04/30. First Use In Commerce: 1997/04/3

**Goods/Services**

Class Status -- ACTIVE. IC 035. US 100 101 102. G & S: reta  
store services, mail order catalog services and on-line retail  
services featuring personal care products, home furnishings, je  
watches, packs, bags, wallets, clothing, hair accessories and t  
First Use: 1987/11/06. First Use In Commerce: 1987/11/06.

**Prior Registration(s)**

1492347;1636474;1726609;AND OTHERS

**Description of Mark**

The mark consists of the words LIMITED TOO and a flower design.

**Filing Date**

2004/09/29

**Examining Attorney**

**Print: May 26, 2006**

**78491413**

**Attorney of Record**

Melanie R. Martin-Jones

# LiMiTeD Too



**Print: May 26, 2006**

**78621351**

**DESIGN MARK**

**Serial Number**

78621351

**Status**

REGISTERED

**Word Mark**

ROSS DRESS FOR LESS

**Standard Character Mark**

No

**Registration Number**

3092798

**Date Registered**

2006/05/16

**Type of Mark**

SERVICE MARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

**Owner**

Ross Stores, Inc. CORPORATION DELAWARE 4440 Rosewood Drive Plea  
CALIFORNIA 945883050

**Goods/Services**

Class Status -- ACTIVE. IC 035. US 100 101 102. G & S: Reta  
department stores; retail store services, namely, specialty sto  
featuring clothing, footwear, personal accessories, handbags, 1  
fragrances, towels, bedding, home accents, home furnishings, be  
bath merchandise and accessories, toys, games, gourmet prepared  
products, house wares, and cookware; retail store and retail di  
store services in the field of general consumer merchandise, cl  
footwear, personal accessories, handbags, luggage, fragrances,  
bedding, home accents, home furnishings, bed and bath merchandi  
accessories, toys, games, gourmet prepared food products, house  
and cookware. First Use: 1982/10/31. First Use In Commerce:  
1983/02/17.

**Prior Registration(s)**

1896618;2430915;2871679;AND OTHERS

**Print: May 26, 2006**

**78621351**

The color blue is claimed as a feature of the mark.

**Part of Mark in Color**

The color blue appears in the entire mark.

**Section 2f Statement**

as to "Dress for Less"

**Filing Date**

2005/05/02

**Examining Attorney**

MACIOL, GENE

**Attorney of Record**

Heather A. Dunn, Esq.

**ROSS**  
**DRESS FOR LESS**

**Print: May 26, 2006**

**78666736**

**DESIGN MARK**

**Serial Number**

78666736

**Status**

REGISTERED

**Word Mark**

BROOKS BROTHERS

**Standard Character Mark**

Yes

**Registration Number**

3029206

**Date Registered**

2005/12/13

**Type of Mark**

TRADEMARK; SERVICE MARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

Retail Brand Alliance, Inc. CORPORATION DELAWARE 100 PHOENIX AV  
ENFIELD CONNECTICUT 06082

**Goods/Services**

Class Status -- ACTIVE. IC 003. US 001 004 006 050 051 052.  
cosmetics and toiletries, namely, emery boards, cologne, cologn  
spray, after-shave lotion, after-shaving balms, shaving cream,  
deodorant for personal use, shampoo, styling gels, body lotion,  
gel, fragrances for personal use, body creams, shower gels, ski  
cleansing cream, and skin and body lotions for personal use. F  
Use: 1964/09/13. First Use In Commerce: 1964/09/13.

**Goods/Services**

Class Status -- ACTIVE. IC 008. US 023 028 044. G & S: Nail  
implements, namely, fingernail and toenail clippers, tweezers,  
nippers and scissors, and nail buffers; flatware, namely, forks  
and kitchen knives and spoons; pocket knives. First Use: 1948/  
First Use In Commerce: 1948/12/31.

Print: May 26, 2006

78666736

Eyeglasses, comprising spectacles, spectacle frames, sunglasses eyeglass chains, eyeglass retaining bands, eyeglass cases and 1 binoculars, tape measures and pedometers, calculators, electron calendars, electrically operated shoe shine units; barometers; electric or battery operated travel irons, voltage conversion d First Use: 1993/03/31. First Use In Commerce: 1993/03/31.

**Goods/Services**

Class Status -- ACTIVE. IC 014. US 002 027 028 050. G & S: Watches, watchbands, clocks, key chains made of precious metal, jewelry. First Use: 1948/12/31. First Use In Commerce: 1948/1

**Goods/Services**

Class Status -- ACTIVE. IC 016. US 002 005 022 023 029 037 0 G & S: Tie Cases Made of Cardboard and Covered with Paper or F and Sold Empty, Shoe Bags for Travel, Garment Bags for Travel, diaries; thesauri; dictionaries; books on a variety of subjects namely, history, wine, dining, etiquette, fashion, public speak and game rule books; personal organizers; calendars; stationery wrapping paper; gift boxes; gift bags; appointment books; greet cards; mail order catalogs featuring all of the foregoing as we clothing and accessories, and cosmetics. First Use: 1903/01/03 First Use In Commerce: 1903/01/03.

**Goods/Services**

Class Status -- ACTIVE. IC 018. US 001 002 003 022 041. G & Handbags, tote bags, backpacks, luggage, wallets, purses, key c briefcases, duffel bags, all-purpose sport bags, business card credit card cases; briefcase-type portfolios, billfolds, tie ca attaché cases, passport cases and umbrellas. First Use: 1903/0 First Use In Commerce: 1903/01/13.

**Goods/Services**

Class Status -- ACTIVE. IC 020. US 002 013 022 025 032 050. picture frames, furniture and pillows. First Use: 1981/12/31. Use In Commerce: 1981/12/31.

**Goods/Services**

Class Status -- ACTIVE. IC 021. US 002 013 023 029 030 033 0 G & S: Hair combs and brushes, serving spoons and forks not ma metal; woodenware, porcelain and china, namely, dishes, bowls, serving platters, salad bowls, salad servers, cake servers, cup saucers, salt and pepper shakers, non-electric coffee pots, tea not made of metal, containers for serving cream not made of met napkin holders, napkin rings not of precious metal, candlestick holders not made of metal, vases and pitchers; crystal and glas beverage glassware, namely, cocktail shakers, mugs, goblets, wineglasses, coasters, decanters, pitchers, bowls, vases, caraf flasks, ice buckets, ice tongs not made of metal; ceramic and laminated accessories, namely, glass dishes and toothbrush holders

Print: May 26, 2006

78666736

1914/00/00.

**Goods/Services**

Class Status -- ACTIVE. IC 024. US 042 050. G & S: bed shee comforters, bed blankets, dust ruffles, duvet covers, pillow ca pillow shams, bed shams, bed spreads, shower curtains, towels, cloths, fabric napkins, fabric placemats, fabric tablecloths an curtains. First Use: 1903/01/03. First Use In Commerce: 1903/

**Goods/Services**

Class Status -- ACTIVE. IC 025. US 022 039. G & S: Men's, w boy's and girl's shirts, tops, sweaters, jackets, pants, suits, bottoms, socks, hats and caps; shoes; shorts, coats, neckties, underwear, vests, robes, hosiery, skirts, dresses, loungewear, scarves, rainwear, trousers, ascots, ties, outer shirts includi evening, dress, polo and sports shirts, collars, pajamas, robes smoking jackets, dressing gowns, mufflers, gloves, hose, belts, suspenders, garters, boots, slippers, shoes, overshoes, beach w swimwear, and formal wear, namely, jackets, pants, suits, shirt shoes, cummerbunds, ties, suspenders and gowns. First Use: 1856/00/00. First Use In Commerce: 1856/00/00.

**Goods/Services**

Class Status -- ACTIVE. IC 027. US 019 020 037 042 050. G & wallpaper. First Use: 2005/03/31. First Use In Commerce: 2005

**Goods/Services**

Class Status -- ACTIVE. IC 028. US 022 023 038 050. G & S: accessories and golf equipment, namely, divot tools, ball marke golf balls, golf clubs, golf bags, golf ball washers, non-motor golf carts, golf tees, and golf club covers. First Use: 1903/0 First Use In Commerce: 1903/03/31.

**Goods/Services**

Class Status -- ACTIVE. IC 035. US 100 101 102. G & S: reta store services, online retail store services and mail order cat services featuring clothing for men, women and children, sporti goods, eyewear, fragrance, body lotions, housewares, personal accessories and luggage. First Use: 1818/00/00. First Use In Commerce: 1818/00/00.

**Prior Registration(s)**

1835478;1835798;1839876;AND OTHERS

**Filing Date**

2005/07/08

**Examining Attorney**

RINGLE, JIM

**Print: May 26, 2006**

**78666736**

Stephen L. Baker

# BROOKS BROTHERS



**EXHIBIT D**  
**EXTRACT FROM RECORDS OF**  
**SECRETARY OF STATE OF FLORIDA**

i

Source: [Legal > States Legal - U.S. > Florida > Public Records > Business & Corporation Information > FL Secretary of State Corporation, LP, LLC, LLP and Trademark Information](#) 

Terms: rhmm or surf central ([Edit Search](#) | [Suggest Terms for My Search](#))

*FLORIDA DEPARTMENT OF STATE*

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**CERTIFICATION CAN ONLY BE OBTAINED THROUGH THE ISSUING GOVERNMENT AGENCY**

*FLORIDA DEPARTMENT OF STATE*

**Company Name:** RHMM, INC.

**Mailing Address:**

101 5TH AVE.

INDIALANTIC, FL 32903

**Type:** DOMESTIC FOR PROFIT

**Status:** INACTIVE

**Filing Date:** 12/16/1980

**State or Country of Incorporation:** FLORIDA

**Registered Agent:** NASH, CHARLES IAN

**Registered Office:**

930 S.HARBOR CITY BLVD.,STE.505

MELBOURNE, FL 32901

**Federal Employer ID Number:** 592056780

**Filing Number:** F09369

**Annual Report:**

Date Due: 1994

Date Filed: 3/28/1994

Date Due: 1993

Date Filed: 5/1/1993

Date Due: 1992

Date Filed: 4/29/1992

**Officers, Directors:**

MANN, PIA

DST

6164 N.W. MINTON RD.

PALM BAY, FL

MANN, MICHAEL D.

DP

6164 N.W. MINTON RD.

PALM BAY, FL

**History:**

File Date: 8/25/1995

Type: ADMINISTRATIVE DISSOLUTION FOR ANNUAL REPORT

Source: [Legal > States Legal - U.S. > Florida > Public Records > Business & Corporation Information > FL Secretary of State Corporation, LP, LLC, LLP and Trademark Information](#) 

Terms: rhmm or surf central ([Edit Search](#) | [Suggest Terms for My Search](#))

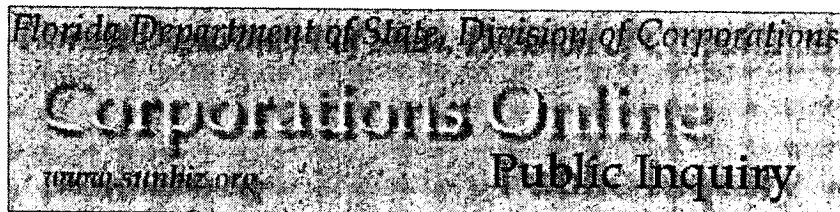
View: Full

Date/Time: Thursday, June 1, 2006 - 12:20 PM EDT



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## Florida Profit

**RHMM, INC.**

### PRINCIPAL ADDRESS

101 5TH AVE.  
INDIALANTIC FL 32903 US  
Changed 05/01/1993

### MAILING ADDRESS

101 5TH AVE.  
INDIALANTIC FL 32903 US  
Changed 05/01/1993

<b>Document Number</b> F09369	<b>FEI Number</b> 592056780	<b>Date Filed</b> 12/16/1980
<b>State</b> FL	<b>Status</b> INACTIVE	<b>Effective Date</b> NONE
<b>Last Event</b> ADMIN DISSOLUTION FOR ANNUAL REPORT	<b>Event Date Filed</b> 08/25/1995	<b>Event Effective Date</b> NONE

## Registered Agent

Name & Address
NASH, CHARLES IAN 930 S.HARBOR CITY BLVD.,STE.505 MELBOURNE FL 32901
Name Changed: 09/10/1987
Address Changed: 09/10/1987

## Officer/Director Detail

Name & Address	Title
MANN, PIA 6164 N.W. MINTON RD. PALM BAY FL	DST
MANN,MICHAEL D.	

6164 N.W. MINTON RD.

PALM BAY FL

DP

---

## Annual Reports

Report Year	Filed Date
1992	04/29/1992
1993	05/01/1993
1994	03/28/1994

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No Name History Information

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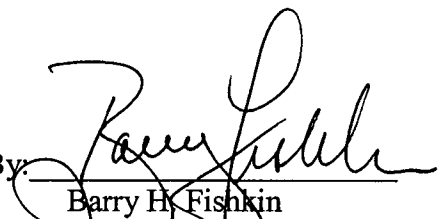
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

-----X	:	
In the matter of Trademark	:	
Registration No. 1,505,369,	:	
	:	Petition for Cancellation
REVMAN INTERNATIONAL, INC.	:	
Petitioner,	:	
	:	
- v -	:	
	:	
RHMM, INC. dba SURF CENTRAL	:	
CORPORATION,	:	
	:	
Registrant.	:	
-----X	:	

**CERTIFICATE OF MAILING**

It is hereby certified that three copies of Petitioner's foregoing Petition for Cancellation dated July 21, 2006, have been deposited and transmitted by United States Postal Service Express Mail "Post Office to Addressee" Service (Serial No. EV 895206463 US) on twenty first day of July, 2006 to:

Trademark Trial and Appeal Board  
U.S. Patent and Trademark Office  
Madison East, Concourse Level Room C 55  
600 Dulany Street  
Alexandria, VA 22314

By:   
Barry H. Fishkin  
Phillips Nizer LLP  
666 Fifth Avenue  
New York, New York 10103

Attorneys for Petitioner  
Revman International, Inc.

**Mailing Label**  
Label 11-F, April 2004



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Date Accepted	Scheduled Date of Delivery	Mo. Day	Employee Signature
Mo. Day Year	Month Day	Delivery Attempt	Time <input type="checkbox"/> AM <input type="checkbox"/> PM
Time Accepted <input type="checkbox"/> AM <input type="checkbox"/> PM	Scheduled Time of Delivery	Mo. Day	Employee Signature
Flat Rate <input type="checkbox"/> or Weight	<input type="checkbox"/> Noon <input type="checkbox"/> 3 PM	Delivery Date	Time <input type="checkbox"/> AM <input type="checkbox"/> PM
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